DRAFT BILL

LEGISLATURE OF THE STATE OF IDAHO
Sixty-ninth Legislature First Regular Session - 2026

IN THE _____
_____BILL NO. _____
BY _____ COMMITTEE

AN ACT
RELATING TO PUBLIC RECORDS; AMENDING SECTION 74-105, IDAHO CODE, TO PROVIDE FOR PUBLIC RECORD EXEMPTIONS RELATED TO CRITICAL INFRASTRUCTURE IN THE WATER AND WASTEWATER SECTOR.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 74-105, Idaho Code, be, and the same is hereby amended to read as follows:

74-105. RECORDS EXEMPT FROM DISCLOSURE -- LAW ENFORCEMENT RECORDS, INVESTIGATORY RECORDS OF AGENCIES, EVACUATION AND EMERGENCY RESPONSE PLANS, CRITICAL INFRASTRUCTURE, WORKER'S COMPENSATION. The following records are exempt from disclosure:

(1) Investigatory records of a law enforcement agency as defined in section 74-101(7), Idaho Code, under the conditions set forth in section 74-124, Idaho Code.

(2) Juvenile records of a person maintained pursuant to chapter 5, title 20, Idaho Code, except that facts contained in such records shall be furnished upon request in a manner determined by the court to persons and governmental and private agencies and institutions conducting pertinent research studies or having a legitimate interest in the protection, welfare and treatment of the juvenile who is thirteen (13) years of age or younger. If the juvenile is petitioned or charged with an offense that would be a criminal offense if committed by an adult, the name, offense of which the juvenile was petitioned or charged, and disposition of the court shall be subject to disclosure as provided in section 20-525, Idaho Code. Additionally, facts contained in any records of a juvenile maintained pursuant to chapter 5, title 20, Idaho Code, shall be furnished upon request to any school district where the juvenile is enrolled or is seeking enrollment.

(3) Records of the custody review board of the Idaho department of juvenile corrections, including records containing the names, addresses and written statements of victims and family members of juveniles, shall be exempt from public disclosure pursuant to section 20-533A, Idaho Code.

(4) ~~(a)~~ The following records of the department of correction:

(~~i~~a) Records of which the public interest in confidentiality, public safety, security and habilitation clearly outweighs the public interest in disclosure as identified pursuant to the authority of the state board of correction under section 20-212, Idaho Code;

(~~ii~~b) Records that contain any identifying information or any

information that would lead to the identification of any victims or witnesses;

(~~iii~~c) Records that reflect future transportation or movement of a prisoner;

(~~iv~~d) Records gathered during the course of the presentence investigation; and

(~~v~~e) Records of a prisoner as defined in section 74-101(10), Idaho Code, or probationer shall not be disclosed to any other prisoner or probationer.

(~~b~~5) Records, other than public expenditure records, related to proposed or existing critical infrastructure held by or in the custody of any political subdivision or public agency only when the disclosure of such information is reasonably likely to jeopardize the safety of persons, property or the public health or safety. Such records may include emergency evacuation, escape or other emergency response plans, risk and vulnerability assessments, operation and security manuals, plans, blueprints or security codes. For purposes of this paragraph, "system" includes electrical, computer and telecommunications systems~~,~~; electric power (including production, generating, transportation, transmission and distribution)~~,~~; drinking water, wastewater, and sewage; and heating, ventilation, and air conditioning. For purposes of this subsection, "critical infrastructure" means any system or asset, whether physical or virtual, so vital to the state of Idaho, including its political subdivisions, that the incapacity or destruction of such system or asset would have a debilitating impact on state or national economic security, state or national public health or safety, or any combination of those matters.

(~~c~~6) Records of the Idaho commission of pardons and parole shall be exempt from public disclosure pursuant to sections 20-1003 and 20-1005, Idaho Code. Records exempt from disclosure shall also include those containing the names, addresses and written statements of victims.

(~~5~~7) Voting records of the former sexual offender classification board. The written record of the vote to classify an offender as a violent sexual predator by each board member in each case reviewed by that board member shall be exempt from disclosure to the public and shall be made available upon request only to the governor, the chairman of the senate judiciary and rules committee, and the chairman of the house of representatives judiciary, rules and administration committee for all lawful purposes.

(~~6~~8) Records of the sheriff or Idaho state police received or maintained pursuant to sections 18-3302, 18-3302H and 18-3302K, Idaho Code, relating to an applicant or licensee, except that any law enforcement officer and law enforcement agency, whether inside or outside the state of Idaho, may access information maintained in the license record system as set forth in section 18-3302K(16), Idaho Code.

(~~7~~9) Records of investigations prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, the rehabilitation of youth, adoptions and the commitment of mentally ill persons. For reasons of health and safety, best interests of the child or public interest, the department of health and welfare may provide for the disclosure of records of investigations associated with actions pursuant to the provisions of chapter 16, title 16, Idaho Code, prepared by the department of health and welfare pursuant to its statutory responsibilities dealing with the protection of children, except any such records regarding adoptions

shall remain exempt from disclosure.

(~~8~~10) Records, including but not limited to investigative reports, resulting from investigations conducted into complaints of discrimination made to the Idaho human rights commission, unless the public interest in allowing inspection and copying of such records outweighs the legitimate public or private interest in maintaining confidentiality of such records. A person may inspect and copy documents from an investigative file to which he or she is a named party if such documents are not otherwise prohibited from disclosure by federal law or regulation or state law. The confidentiality of this subsection will no longer apply to any record used in any judicial proceeding brought by a named party to the complaint or investigation, or by the Idaho human rights commission, relating to the complaint of discrimination.

(~~9~~11) Records containing information obtained by the manager of the Idaho state insurance fund pursuant to chapter 9, title 72, Idaho Code, from or on behalf of employers or employees contained in underwriting and claims for benefits files.

(1~~0~~2) The worker's compensation records of the Idaho industrial commission, provided that the industrial commission shall make such records available:

(a) To the parties in any worker's compensation claim and to the industrial special indemnity fund of the state of Idaho; or

(b) To employers and prospective employers subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, who certify that the information is being requested with respect to a worker to whom the employer has extended an offer of employment and will be used in accordance with the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations; or

(c) To employers and prospective employers not subject to the provisions of the Americans with disabilities act, 42 U.S.C. 12112, or other statutory limitations, provided the employer presents a written authorization from the person to whom the records pertain; or

(d) To others who demonstrate that the public interest in allowing inspection and copying of such records outweighs the public or private interest in maintaining the confidentiality of such records, as deter- mined by a civil court of competent jurisdiction; or

(e) Although a claimant's records maintained by the industrial commission, including medical and rehabilitation records, are otherwise exempt from public disclosure, the quoting or discussing of medical or re- habilitation records contained in the industrial commission's records during a hearing for compensation or in a written decision issued by the industrial commission shall be permitted; provided further, the true identification of the parties shall not be exempt from public disclosure in any written decision issued and released to the public by the industrial commission.

(1~~1~~3) Records of investigations compiled by the commission on aging in- volving vulnerable adults as defined in section 18-1505, Idaho Code, alleged to be abused, neglected or exploited.

(1~~2~~4) Criminal history records and fingerprints as defined in

section 67-3001, Idaho Code, and compiled by the Idaho state police. Such records shall be released only in accordance with chapter 30, title 67, Idaho Code.

(13~~4~~5) Records furnished or obtained pursuant to section 41-1019, Idaho Code, regarding termination of an appointment, employment, contract or other insurance business relationship between an insurer and a producer.

(14~~5~~6) Records of a prisoner or former prisoner in the custody of any state or local correctional facility, when the request is made by another prisoner in the custody of any state or local correctional facility.

(15~~6~~7) Except as provided in section 72-1007, Idaho Code, records of the Idaho industrial commission relating to compensation for crime victims pursuant to chapter 10, title 72, Idaho Code.

(16~~7~~8) Records or information identifying a complainant maintained by the department of health and welfare pursuant to section 39-3556, Idaho Code, relating to certified family homes, unless the complainant consents in writing to the disclosure or the disclosure of the complainant's identity is required in any administrative or judicial proceeding.

(17~~8~~9) Records of any certification or notification required by federal law to be made in connection with the acquisition or transfer of a firearm, including a firearm as defined in 26 U.S.C. 5845(a).

(~~18~~20) Records of the office of the state public defender and the office of the state appellate public defender containing information protected or exempted from disclosure under the rules adopted by the Idaho supreme court, attorney work product, attorney-client privileged communication, records containing confidential information from an individual about his criminal case or performance of his attorney, or confidential information about an inquiry into an attorney's fitness to represent indigent defendants.

(~~19~~21) Records and information received by the office of the state con- troller from any local government, state agency and department, or volunteer nongovernmental entity for purposes of entry into the criminal justice integrated data system pursuant to section 19-4803, Idaho Code, and all records created by persons authorized to research and analyze information entered into the criminal justice integrated data system, regardless of whether such records were previously exempted from disclosure or redacted pursuant to state or federal law or court order. This exemption does not apply to projects, reports, and data analyses approved for release by the data oversight council and issued by persons authorized to conduct research and analysis as set forth in chapter 48, title 19, Idaho Code. Records and information relating to the management of the criminal justice integrated data system shall not be exempt from disclosure except as otherwise provided in law.

(2~~0~~2) Records that contain any identifying information or any information that could lead to the identification of any persons or entities that participate in or assist with an execution of a death sentence as described in section 19-2716A, Idaho Code.

(2~~1~~3) Records, other than public expenditure records, relating to the nature, location, or function of cybersecurity devices, programs, or systems designed to protect computer, information technology, or communications systems against terrorist or other attacks.

(2~~2~~4) Any index, report, or records of any person arrested for, prosecuted for, or convicted of a crime in this state who has

successfully petitioned a court to have his records shielded from disclosure pursuant to section 67-3004(11), Idaho Code.
(2~~3~~5) Any record of an unlawful detainer under section 6-303, Idaho Code, if shielded by the court pursuant to section 6-303A, Idaho Code.